



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MAP/172495

PRELIMINARY RECITALS

Pursuant to a petition filed March 04, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Jefferson County Department of Human Services in regard to Medical Assistance (MA), a hearing was held on April 19, 2016, at Waukesha, Wisconsin.

The issue for determination is whether the petitioner's appeal is timely.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]

Jefferson County Department of Human Services
Workforce Development Center
874 Collins Rd.
Jefferson, WI 53549

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Waukesha County.
2. On October 27, 2015 the agency sent the petitioner a notice stating that as December 1, 2015 she had a monthly MAPP premium in the amount of \$300.
3. In December 2015 the petitioner's monthly income for her MAPP benefits was \$1,800 consisting of \$1,137 from social security and the remainder from her job with the [REDACTED]

4. On December 18, 2015 the agency sent the petitioner a notice stating that her MAPP benefits would be ending effective January 1, 2016 because she had failed to pay her MAPP premium.
5. On January 11, 2016 the agency sent the petitioner another notice stating that her application for MAPP benefits was denied because she cannot re-enroll in MAPP for a six-month period when she failed to pay a premium.
6. All of the above-listed notices contained the various due dates for an appeal. The appeal due dates are 45 days from the date of each notice. Each notice mentioned this 45 day time limit and the specific date that an appeal was due.
7. On March 11, 2016 the agency sent the petitioner a notice of action needed stating that the petitioner had until March 21, 2016 to pay her MAPP premium. The notice went on to state that the agency would send her more information on the amount of the premium and where to pay it.
8. On March 7, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing. In her request the petitioner's main complaint was that she believed that the agency worker gave her incorrect information.

DISCUSSION

DHA can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if an appeal is untimely. An appeal concerning MA is untimely if it is not received by DHA within 45 days of the date of the action being appealed. See, 42 C.F.R. § 431.221(d); Wis. Stat. § 49.45(5); Wis. Admin. Code § DHS 104.01(5)(a)3; Wis. Admin. Code § HA 3.05(3). A Hearing request that is not received within the 45-day time period must be dismissed for lack of jurisdiction. Wis. Admin. Code § HA 3.05(4)(e).

The MAPP program allows disabled individuals to work but to retain eligibility for Medical Assistance (MA). Wis. Stat., §49.472; *MA Eligibility Handbook (MEH)*, 5.12.1. If income is above 150% of the federal poverty level, the person is required to pay a monthly premium to receive MAPP benefits. *MEH*, 5.12.5. Income eligibility is determined using general MA rules. Wis. Admin. Code, §DHS 103.04. MA rules require the department to utilize Supplemental Security Income (SSI) regulations to determine what income is counted, disregarded, or exempt. Wis. Stat., §49.47(4)(c), Wis. Admin. Code, §§DHS 103.04(8)(b) and 103.07(2)(g).

If a premium is not paid when due, MAPP is discontinued, and the recipient is placed in a 6-month restrictive re-enrollment period. Such a recipient cannot become eligible for MAPP during that period of time until she pays all arrears and current payments. *Medicaid Eligibility Handbook*, § 26.6.1. There are five "good cause" exceptions for not paying a MAPP premium, i.e., (1) problems with electronic funds transfer; (2) problems with an employer's wage withholding; (3) administrative error in processing the premium; (4) fair hearing decision; and (5) those determined to be beyond the client's control. See, *Medicaid Eligibility Handbook*, § 26.6.2. After twelve months, a recipient may regain eligibility without paying the past due premiums. *Medicaid Eligibility Handbook*, § 26.6.1.

In this case the first notice of a MAPP premium was sent to the petitioner on October 27, 2015. The petitioner is well beyond the time limit in which to appeal the premium amount. Then when she did not pay the premium the agency sent the petitioner another notice on December 18, 2015 stating that her MAPP benefits were ending effective January 1, 2016. The petitioner is beyond the 45 day time limit to appeal this issue. On January 11, 2016 the agency sent the petitioner another notice stating that her application had been denied because she was in a six month restrictive reenrollment period. The petitioner is beyond the 45 day deadline to appeal this issue.

It appears that at some point the agency removed this 6 month restrictive re-enrollment period because the final notice states that the petitioner may become eligible for MAPP if she pays the premium amount. An

appeal of this notice is timely, but because there is no negative action in which to appeal, so I again have no jurisdiction.

At the hearing the petitioner's main complaint was that the agency worker gave her incomplete and inaccurate information. As I stated at the hearing, I have no jurisdiction to address this issue. I am not the worker's supervisor. My only review is whether there is jurisdiction, and if so, whether the agency actions are correct. Here, there is no jurisdiction, and thus, there is nothing for me to decide.

CONCLUSIONS OF LAW

The petitioner's appeal is untimely.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 12th day of May, 2016

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 12, 2016.

Jefferson County Department of Human Services
Division of Health Care Access and Accountability